BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

ANN F. ALE)	
VS.	Claimant))))	+ No. 176 906
USD #348	Respondent) Docke	Docket No. 176,806
AND	Respondent) }	
ALLIED MUTUAL INSURANCE COMPANY Insurance Carrier)	

ORDER

Respondent and its insurance carrier appeal from a Preliminary Hearing Order for medical treatment entered February 16, 1995 by Administrative Law Judge Floyd V. Palmer.

ISSUES

On appeal, respondent contends the Administrative Law Judge exceeded his jurisdiction in granting medical benefits because the evidence does not establish that claimant is in need of further treatment as a result of accidental injury which arose out of and in the course of the claimant's employment with the respondent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record and considering the briefs of the parties, the Appeals Board finds, for preliminary hearing purposes, as follows:

The claimant's need for medical treatment for her carpal tunnel syndrome in her left upper extremity is the result of personal injury by accident which arose out of and in the course of claimant's employment with respondent. This conclusion by the Appeals Board is based upon the uncontroverted testimony of claimant and the medical evidence. The mere passage of time between onset of claimant's symptoms on the left and the recommendation for surgery does not, in and of itself, give rise to a finding of intervening accident. Claimant testified that her condition has not worsened since leaving her employment with respondent. Rather, she is now more aware of the symptoms on the left due to her having had surgery on the right. The medical records and evidence support the claimant's position in this regard. Respondent's arguments to the contrary are merely

IT IS SO ORDERED.

conjecture and are not supported by the evidence. Claimant has met her burden of proving that it is more probably true than not true that her current condition and need for treatment is a result of personal injury by accident arising out of and in the course of her employment.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the February 16, 1995 Order of Administrative Law Judge Floyd V. Palmer should be, and the same is hereby, affirmed.

Dated this day of June 1995.	
	BOARD MEMBER
	BOARD MEMBER
	BOARD MEMBER

c: Bonita J. Yoder, Lawrence, KS Terri Z. Austenfeld, Overland Park, KS Floyd V. Palmer, Administrative Law Judge George Gomez, Director